

Notice of Allowability

Application No.

10/749,914

Examiner

Ernst V. Arnold

Applicant(s)

PERRICONE ET AL.

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/17/06.
2. ☒ The allowed claim(s) is/are 1,5-10,12-15,18-23,25 and 26 [renumbered as 1-19].
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An extension of time under 37 CFR 1.136(a) is required in order to make an examiner's amendment, which places this application in condition for allowance. PTO/SB/17 filed on 12/31/03 indicated the charging of any additional fee(s) during the pendency of this application. An extension of time for 3 MONTH(S) is required and PTO/SB/17 filed on 12/31/03 authorized the Director to charge Deposit Account No. 19-4516 the required fee of \$510.00 for this extension.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Stephen McNamara on 10/04/06.

The application has been amended as follows:

Specification:

Paragraph [0005]: After "10/448,632" insert --- filed on 5/30/2003 ---.

Paragraph [0014]: After "10/448,632" insert --- filed on 5/30/2003 ---.

Claims:

In claim 5, line 4, after "5% w/w" insert --- polyglycol ---.

Cancel claim 11.

In claim 14, line 4, delete "of any of these" and insert --- thereof ---.

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In claim 19, line 1, after "carrier" insert --- further ---.

In claim 22, line 1, delete "16" and insert ---15 ---.

Cancel claim 24.

The following is an examiner's statement of reasons for allowance: It is noted for the record that the Examiner has not made an obvious double patenting rejection over the claims in application number 10/448,632 filed on 5/30/2003 because the art does not teach the addition of polyglycols having a molecular weight of 200 and polyglycols having a molecular weight of 400 to polyenylphosphatidylcholine-enriched phosphatidylcholine compositions. Thus, the instant composition is distinct and unobvious from the composition disclosed in the application as well as the art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Claims 1, 5-10, 12-15, 18-23, 25 and 26 are allowed.

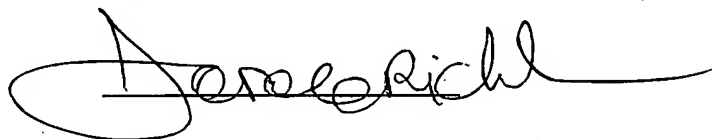
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernst V. Arnold whose telephone number is 571-272-8509. The examiner can normally be reached on M-F (6:15 am-3:45 pm).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ernst Arnold
Patent Examiner
Technology Center 1600
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A handwritten signature in black ink, appearing to read 'Johann Richter', with a large, stylized loop at the beginning.

Johann Richter, Ph.D. Esq.
Supervisory Patent Examiner
Technology Center 1600